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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement*/ submitted by the International League for the Rights and Liberation of Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2001]

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*/ This written statement is issued, unedited, as received in English and French from the submitting non-governmental organization(s).

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ENG

The right to self-determination: Some African countries under the sway of the former colonial power

The *International League for the Rights and Liberation of Peoples (LIDLIP)* has for the last years been concerned with the activities of world oil's companies and in particular with those of **ELF Aquitaine** in Africa On the basis of numerous witnesses and documents, it appears that in order to increase their profits in ever more competitive markets, the companies are obliged to accumulate and concentrate power. That is done on the one hand by merging among themselves into ever more powerful transnational corporations and on the other hand by relying more and more on local political powers. This is a process which can even lead them to crush the fundamental rights of the peoples whose natural resources they are exploiting.

Dealing particularly on the case of ELF Aquitaine, the *Permanent Peoples' Tribunal* (*) pronounces in its deliberations by pointing out a certain number of legal principles called into question in these situations and by making in this regards a few recommendations:

> "1. The major violation resulting in this case from the intervention of ELF and the French state, in different degrees according to various periods and countries, is that of the right to self-determination. Article 1, common in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, affirms its right of all peoples to self-determination, to wit either to freely determine its political status, to freely pursue their economic, social and cultural development, to freely dispose of their natural wealth and resources. The Universal Declaration on the Rights of Peoples (called Algiers Declaration) proclaims also the right to political self-determination to break free from any colonial domination as well as the exclusive right over its natural wealth and resources.
> The debate extensively showed that the countries under the influence of ELF saw their right to self-determination greatly violated. What is the effect of the economic spin-off of the oil manna on the peoples of the producing countries? What is the political autonomy when elections largely depend on oil interests?
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> 2. Violations of economic, social and cultural rights are the direct consequence of the violation of the right to self-determination. The right to a minimum income (Art. 11 International Covenant on Economic, Social and Cultural Rights) to health (Art. 12) to education (Art. 13) are not guaranteed in any of the countries, although these countries possess great wealth. Only one example: Gabon, a country classified lower than some of the poorest countries in the world, with regard to public health (19 physicians for 100 000 inhabitants); life expectancy 56 years); infant mortality (one child out of seven); and education (more than a third of adults are illiterate). Figures of most other countries are similar.
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> 3. Civil and political rights are not respected any more than economic, social and cultural rights. Freedom of association and of expression (Art. 22 and 19 of the International Covenant on Civil and Political Rights) are not better protected than freedom for trade unions (Art. 8 of the International Covenant on Economic, Social and Cultural Rights). The right to life is the most violated of all. The recent history of Congo is a succession of deadly conflicts and massacres in flagrant violation of art. 6 of the International Covenant on Civil and Political Rights.
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> 4. The field of economic rights is also the field of external intervention with the complicity of often corrupt leaders. Massive electoral fraud is the rule everywhere,

despite the set up of electoral commissions in charge of monitoring and the presence of international observers. [...]. What about the right of the citizen to take part in the direction of public affairs, be it directly or through the intermediary of representatives freely chosen to vote [...] during free elections [...] assuring the expression of the will of the voters [...]" and defined in article 25 of the International Covenant on Civil and Political Rights?

5. Environment and developmental rights are no better protected either. Exploitation occurs mostly at the price of pollution of the regions concerned, to the detriment of indigenous populations who do not receive the benefits. As a theoretical source of corruption, exploitation increases the corruption factor in practice and increases the gap between rich and poor. External intervention, contrary to art. 11 of the Algiers Declaration, far from contributing to the development of the countries where the companies are operating, becomes an obstacle to sustainable development, to the rights of every man and woman who live in a country and to the guarantee of the rights of future generations.

Can the transnational corporations, in particular the ELF, be held responsible for grave violations? Article 27 of the Algiers Declaration states that "The gravest violations of the fundamental rights of peoples, especially of their right to existence, constitute international crimes for which their perpetrators shall carry personal penal liability."

One can propose the following as a tentative response. Surely, the Declaration of Human Rights assigns responsibility for human rights to states and not individuals. But can immunity be admitted for acts committed by enterprises with the complicity of states where they have their headquarters and states where they operate? Once the international community has created international ad hoc tribunals and decided to create an international criminal court, can transnational corporations - and especially individuals who manage them - take refuge in a legal void in the name of sovereignty of states?

The responsibility of transnational corporations must be measured according to the power they exercise. They must answer for damage caused to persons, goods, and the environment in the countries where they operate and make profit.

It is on this principle that the responsibility of ELF for the damage caused to the population in African countries where it operates is founded. The same responsibility holds equally for the French state for its cooperation in illicit acts alledged to ELF and, consequently, for violations of human and peoples' rights. The responsibility of heads of states and governments who have been accomplices to such acts is thus established.

Finally, as a consequence, the *Permanent Peoples' Tribunal*:

"- requests the shareholders of ELF to inquire into the acts of the company in African countries where it operates and to ask for an open and impartial accounting of these acts;

- requests the National French Assembly to set up an inquiry commission on the relationship between the French government, ELF and the governments of African countries where it operates;

- requests the European Union to include in its agenda the renegotiating on the renewal of the Accords of Lomé and the question of the relationship among multinational oil companies and the countries in the ACP region, in particular the African countries;

- requests the Commission on Human Rights to recommend to the Sub-Commission on the Promtion and Protection of Human Rights to examine the question of violation of human and peoples' rights deriving from the relationship between multinational oil companies and certain states."

(*) The ***Permanent Peoples' Tribunal*** was created in 1979 by a group of personalities, of different nationalities and background, at the instigation of the Italian Senator Lelio Basso (1903-1978), former member of the Russell Tribunal. Functioning as a tribunal of opinion, this international body receives complaints from peoples subjected to injustice of any kind. As such, the Tribunal aims to fill a void in the international juridical order in the field of rights of national communities or ethnic minorities. Since its founding, it has investigated and deliberated some 30 cases. In May 1999, it held in the premises of the National Assembly in Paris a session on the activities of transnational corporations.